

## **Heavy Punishment for Collusion through Exchange of Trade Secrets, such as Plans to Raise Prices, Among Competitors**

The Fair Trade Commission uncovers collusion among heavy-duty commercial vehicle manufacturers, imposes penalties of 116 billion won, and reports to the prosecution.

The Fair Trade Commission (headed by No-Daerae; hereinafter referred to as "FTC") has decided to issue corrective orders to 7 companies (Hyundai, Tata Daewoo, Daewoo Songdo, Daimler, Man, Volvo and Scania) for colluding to fix prices of heavy-duty commercial vehicles, such as dump trucks, tractors and cargo trucks and has also decided to impose penalties of a total of 116 billion won, and to report the case to the prosecution.

- \* Daewoo Songdo Development Co., Ltd. has been handling the sale of heavy-duty commercial vehicles manufactured by Tata Daewoo under the company name of Woori Motor Sales Corporation, Daewoo Auto Sales Corporation, etc. from March 1996 until October 2010.
- These companies that are in competition with one another have been colluding to fix prices by exchanging important business secrets (plans to raise prices, selling prices, sales volume, volume of stock, sales promotional plans, present situation of sales organizations, etc.) in a continuous and systematic manner, by determining their prices based on the information obtained from competitors, etc.

### **Measures taken**

- Corrective orders: Prohibiting collusion and exchange of information.
- Imposition of penalties: Imposing 116,048,000 won on six companies.











Company name	Amount of penalty (in million won)	Company name	Amount of penalty (in million won)
Hyundai Motor Co., Ltd.	71,723	Tata Daewoo Commercial Vehicle Co., Ltd.	1,637
Daimler Trucks Korea Ltd.	4,691	Man Truck & Bus Korea Ltd.	3,452
Volvo Group Korea Ltd.	16,982	Scania Korea Co., Ltd.	17,563

○ Aforementioned seven companies have been reported to the prosecution.

## 1 Characteristics of Heavy-Duty Commercial Vehicle Market

(Relevant models) Heavy-duty commercial vehicles with maximum load of eight ton or more (dump trucks, tractors and cargo trucks)

\* Images of relevant items

Kinds	Images	Classifications
Dump trucks	   <p>8 ton class (4x2)      15 ton class (6x4)      5 ton class (8x4)</p>	Maximum load
Tractors	   <p>4x2      6x2      6x4</p>	Driving System
Cargo trucks	    <p>4x2      6x4      8x4      10x4</p>	Driving system

(Market situation) Seven manufacturers form an oligopoly from 2002 to 2011, where Hyundai's share in all models has been ranked No. 1 (approximately 50% of the whole market); lately, the share of imported vehicles is continuously on the rise. (21% in 2002 --> 24% in 2011)

- (Market size) The market is greatly influenced by business fluctuations. Market size is stagnant due to the recent economic recession. (11,445 units in 2011, a decrease of 0.4% compared with that of the previous year)
- (Customers) Individuals who buy heavy-duty trucks to transport cargo under an entrust management system take up 80% (including members of the Korean Cargo Transport Workers' Union), while companies (cargo transport companies and construction companies) take up 20%.

Market share by company (in 2011)

	Hyun dai	T ata Dæw oo	V olv o	Sca ã ia	Daim ã r	M a
Dum p truck s	37.5	8.4	30.6	12.2	6.9	4.4
T ractors	27.8	11.8	18.7	13.3	18.2	10.2
Cargo truck s	62.8	35.3	-	1.6	0.3	-

## 2

### Details and characteristics of violations

#### Background of collusion

Companies under investigation who take up nearly 100% of sales in the heavy-duty commercial vehicle market in Korea began exchanging data on sales records under the pretext of grasping the whole market size.

- As the exchange of data became brisk, the exchange of information has covered the plans to raise prices, sales volume, discount rate, volume of stock, sales promotional plans, present situation of sales

personnel by district, etc.

The lure of collusion is tempting as factors, such as rise in the cost of components due to strengthened environmental control and fluctuations in the foreign exchange rate, influencing cost are similar and the sales volume is greatly influenced by factors, such as the rise and fall of export and import and fluctuations in the construction industry.

#### Details of collusion

Seven heavy-duty commercial vehicle manufacturers and sellers have been exchanging important business information in a confidential and systematic manner from December 2002 to April 2011.

#### ○ Method of exchanging information

- Executives and employees of competing companies have held meetings every two to three months, which amount to 55 times, and compiled what was discussed at such meetings and shared them.
- Executive secretary of the competitors' meetings gathers each company's confidential business information three to four times a month through email, compiled such information in an Excel file and share the file among them.
- Whenever needs arise, such as time to decide on raising prices, they exchange confidential business information by telephone.

#### ○ Details of exchanged confidential business information

- Price-related information: Plans to raise prices, selling prices, loss rate (discount rate).
- Sales volume-related information: Sales plans, volume of stock, expected number of vehicles at monthly closing, sales volume, etc.
- Finance-related information: Interest rate for installment payments, ratio of advance payment, period of installment payments, present status of

installment finance companies, etc.

- Product-related information: Plans to introduce new products and specifications of new products.
- General matters: Organizational changes, sales personnel by district, sales promotional plans, plans for in-house events.

Furthermore, they made firm their intention of collusion by publicly declaring at competitors' meetings, etc. that they would accept competitors' price increase, take it into consideration when they determine prices, etc.

- During the decision-making process of increasing prices. they have made comparison and analysis of information on competitors' prices, etc. that they obtained through the exchange of information, and used it as criteria for determining the margin and timing of price increase.

Continuous increase in selling prices due to collusion

As businesses in the heavy-duty commercial vehicle market avoided competition and kept prices at similar level, the selling prices of heavy-duty commercial vehicles have kept on rising regardless of the market situation, such as an increase or decrease in demand and fluctuations in foreign exchange rate while they have colluded with one another.

Prices of main models of dump trucks and trend of fluctuations in won/euro exchange rate



## Prices of main models of tractors and trend of fluctuations in won/euro exchange rate



\* Prices of main models of tractors and trend of fluctuations in won/euro exchange rate

\* During the period of collusion, prices tended to continuously rise, irrespective of the fall of foreign exchange rate.

### 3

### Meanings of these measures and further plans

These measures have meanings in that exchanging confidential business information among competitors in a systematic and private manner for a long time, reaching an agreement among competitors and thus colluding on prices are heavily punished.

- It is also made clear that even tacit agreements through the exchange of information, other than direct agreement on prices, are collusion.

These measures are expected to bring competition in the heavy-duty commercial vehicle market.

- Furthermore, individuals and small and medium businesses using heavy-duty commercial vehicles are expected to enjoy actual benefit as their burden decreases.